



23 APR 2007

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In re Application of  
STOCKTON, et al.  
U.S. Application No.: 10/581,987  
PCT No.: PCT/US04/41597  
Int. Filing Date: 13 December 2004  
Priority Date: 12 December 2003  
Attorney Docket No.: 1709.030002  
For: METHOD AND SYSTEM CONFIGURED FOR  
FACILITATING MANAGEMENT OF INTER-  
NATIONAL TRADE RECEIVABLES  
TRANSACTIONS

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to applicant's petition to accept the present national stage application without the signature of joint inventor Wil Ballard filed 28 March 2007 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 13 December 2004, applicant filed international application PCT/US04/41597, which claimed a priority date of 12 December 2002. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 12 June 2006.

On 07 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee.

On 04 January 2007, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 28 March 2007, applicant filed the present petition under 37 CFR 1.47 accompanied by a petition for a one-month extension of time and payment of the appropriate one-month extension fee. With the filing of the extension of time petition and payment of the extension fee, applicant's response is considered timely filed.

### DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied items (1) and (3).

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

While applicant has included a statement from counsel that a copy of the U.S. application and declaration was "sent to Mr. Ballard" applicant has not detailed how the materials were sent and confirmed that they were received. This is especially important in the present case where applicant is asking that the silence of the inventor be considered a refusal to sign. Were the papers mailed to Mr. Ballard's last known address or were they sent through an e-mail. Applicant should include copies of all relevant correspondence between counsel and Mr. Ballard in any request for reconsideration to support the contention that the papers were delivered in a way in which it is clear that Mr. Ballard would have received them.

Regarding item (4), the filed declaration does not comply with 37 CFR 1.497(b). 37 CFR 1.47(a) states that in a situation where an inventor refuses to sign or can not be reached the declaration is to be signed by the other inventors on their own behalf and on behalf of the non-signing inventor. Applicant has filed a declaration executed by an authorized officer of the corporate applicant on behalf of Mr. Ballard. Such a paper would be proper if proceeding under 37 CFR 1.47(b) and Mr. Ballard was the sole inventor. However, in the present situation it removes the presumption that the other inventors in the application, Stockton, Goodman and Jones, were executing the declaration on their own behalf and on behalf of Mr. Ballard. Lastly, the residence information for inventors Goodman and Jones is illegible.

### CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.47(a) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop

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PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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